



ENERGY &
TELECOMMUNICATIONS
INTERIM COMMITTEE 2021-22

**Energy and Telecommu
Interim Committee**

July 23, 2021

Exhibit 8

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68th Montana Legislature

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July 23, 2021

TO: Energy and Telecommunications Interim Committee
FROM: Jameson Walker, Staff Attorney
RE: Administrative Rulemaking and Rule Review, July 2021

The Energy and Telecommunications Interim Committee is required to review administrative rules promulgated by the Public Service Commission for compliance with the Montana Administrative Procedure Act (MAPA). The rulemaking and rule review processes and the Committee's and an individual legislator's roles in these processes are outlined below.

PROPOSAL NOTICES

Department of Public Service Regulation and Public Service Commission

MAR Notice Number: 38-5-248

Subject: Adoption of a rule pertaining to advanced metering opt-out.

Summary: The department proposes to adopt New Rule I (advanced metering opt-out provisions). The department proposes the amendments to comply with House Bill 267 from the 2019, session and House Bill 606 from the 2021 session. House Bill 606 created a new statute to allow a utility to allow customers to opt-in to the installation of all advanced metering gateway devices located at an end user's residence or business. House Bill 606 codified new definitions of "advanced metering device," "advanced meter," and "advanced metering gateway device." The department states that it is reasonably necessary to create a process for electric and natural gas utilities to create a process for electric and natural gas utilities to institute opt-out programs through tariffs approved by the commission.

Notes/Hearing: This notice is an update to a prior rule notice published in January 29, 2021. The department will hold a public hearing on August 30, 2021, to consider the notice.

CHRISTI JACOBSEN

MONTANA SECRETARY OF STATE

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Montana Administrative Register Notice 38-5-248

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BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rule I regarding advanced metering) PROPOSED ADOPTION
opt-out)

TO: All Concerned Persons

1. On February 23, 2021, at 1:30 p.m., the Department of Public Service Regulation, Public Service Commission (department) will hold a virtual public hearing to consider the proposed adoption of the above-stated rule. The hearing will be livestreamed at <http://psc.mt.gov/livestream>. Parties seeking to participate in the hearing must contact the department at 1-800-646-6150, by 5 p.m., February 22, 2021, to receive the necessary call-in information for the hearing.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on February 19, 2021. Please contact Katy Gordon, Department of Public Service Regulation, 1701 Prospect Avenue, Helena, Montana, 59620-2601; telephone (406) 444-6150; TDD/Montana Relay Service (406) 444-4212; or e-mail Katy.Gordon@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I ADVANCED METERING OPT-OUT PROVISIONS (1) An electric utility shall provide customers with the option to remove an installed advanced meter device and replace it with a traditional meter, or to decline installation of an advanced meter device and retain a traditional meter, as guided by a cost-based, tariffed opt-out service.

(2) Prior to installation of an advanced meter device, the utility shall give written notice to the customer at least 60 days in advance.

(3) The electric utility shall notify the customer of the following if a customer expresses interest in using a traditional meter:

(a) The customer will be required to pay the amount of the approved tariff charge, if applicable.

(b) The electric utility shall explain the facts concerning advanced meters and attempt to address any customer concerns prior to signing up a customer for advanced meter opt-out service. To the extent that the electric utility offers multiple options for the customer to obtain or retain either an advanced meter or a traditional meter, the utility shall explain each option and the associated costs and give the customer choice over the option selection.

(4) The electric utility shall file a proposed tariff for opt-out service at least 120 days prior to the installation of advanced metering devices.

(5) A utility shall address circumstances unique to the utility in its tariff application, including what fees, if any, should be charged to recover costs, such as the removing an existing advanced meter and the subsequent installation of a traditional meter, or costs associated with providing meter reading and billing services associated with the use of a traditional meter.

AUTH: 69-2-101, 69-2-102, 69-3-103, 69-3-203, 69-3-321, 69-4-1001, 69-4-1002, 69-4-1003, 69-4-1004, MCA

IMP: 69-4-1004, MCA

REASON: In 2019, the Montana Legislature adopted House Bill 267, which was later codified as 69-4-1001 through 69-4-1004, MCA. Section 69-4-1004(2), MCA requires that the department adopt rules providing options and requirements for individual customers to opt out of advanced metering installation. The department received comments from affected parties; held two virtual public listening sessions on September 30, 2020 and October 7, 2020; and received written public comment prior to compiling this proposed rule. This proposed rule is reasonably necessary to implement the opt-out program.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Katy Gordon, Department of Public Service Regulation, 1701 Prospect Avenue, Helena, Montana, 59620-2601; telephone (406) 444-6150; fax (406) 444-7618; or e-mail Katy.Gordon@mt.gov, and must be received no later than 5:00 p.m., March 1, 2021.

5. The Montana Consumer Counsel, 111 North Last Chance Gulch, Suite 1B, Helena, MT 59620-1703, telephone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

6. The commission, a commissioner, or a duly appointed presiding officer may preside over and conduct the hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in section 4 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by email on January 14, 2021.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule will not significantly or directly impact small businesses.

/s/ LUKE CASEY

Luke Casey
Rule Reviewer

/s/ JAMES BROWN

James Brown
Chair
Department of Public Service Regulation

Certified to the Secretary of State on January 19, 2021.

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For questions regarding the content, interpretation, or application of a specific rule, please contact the agency that issued the rule. A directory of state agencies is available online at <http://www.mt.gov/govt/agencylisting.asp>.

For questions about the organization of the ARM or this web site, contact sosarm@mt.gov.